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EXAMINER

JANVIER, JEAN D

ART UNIT

PAPER NUMBER

3622

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/314,424

Applicant(s)

BURKE, BERTRAM V.

Examiner

Jean D Janvier

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Arguments

First of all, although there was no formal interview granted or recorded in the case on March 25, 2003, however, the Examiner did speak with the Attorney of record concerning the Applicant's intention to claim the benefit of pending US Application 09/611, 905, filed on July 7, 2000 (priority claim). Furthermore, contrary to the Applicant's arguments that Examiner had previously denied a priority claim, this is the first time a priority claim, under either 35 U.S.C 120 or 121, has been submitted during prosecution of the claims on the merit and the priority claim has been respectfully denied since there was no copendency between the Instant Application, filed on May 18, 1999, and the priority Application 09/611, 905, filed on July 7, 2000; in other words, the Instant Application was even filed before the priority document, Application 09/611, 905 (when the Instant Application was filed, the priority document was not yet filed). Therefore, the copendency between the Instant Application and the priority document does not exist.

Additionally, an application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification of in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number. In other words, Applicant must, in accordance with 37 CFR 1.78(a)(2) and (a)(5)), update the first paragraph of the specification using the priority data (priority information) before the benefit of an earlier filing date under 120 and 121 can be claimed or become effective.

Second of all, in general, Applicant argues that incorporating Hovakimian, the secondary reference, into the Burke's reference is improper or can not yield to the claimed invention, that is donating by a merchant to identified non-profit organizations on behalf of a customer calculated rebates accumulated by the customer for purchases made at the merchant's POS during a period of time, since Hovakimian teaches donating by a credit card issuer a customer's accumulated credits or rebates to the customer's identified non-profit organizations when the customer uses the issuer's credit card to pay for transactions at participating retailers. In other words, **the combination is improper, according to the Applicant, since Hovakimian does not suggest that it is the merchant's decision and money that is involved.** The Examiner respectfully and completely disagrees with the Applicant's findings. The fact of the matter is, as disclosed by Hovakimian, **it is not the purchaser's money or change due that is being collected from the purchaser and donated to the non-profit organizations, it is the cumulative credit or rebate given to the purchaser by a third party or merchant, wherein the third party is a credit card merchant or a credit card issuer, whenever the purchaser uses the issuer's credit card to pay for transactions at participating merchants or retailers; in other words, it is the merchant's or credit card issuer's money, not the purchaser's change due or money, that is donated to the non-profit organizations, as previously pointed out by the Applicant.** In addition, Hovakimian does show that it is the merchant's or credit card issuer's money (and decision), not the purchaser's change due or money that is donated to the non-profit organizations. Hence, combining the Hovakimian's reference with the Burke's reference does indeed produce the expected result- donating calculated and accumulated credits or rebates (money) by a merchant (credit card issuer) to identified non-profit organizations on behalf of a

Art Unit: 3622

purchaser or customer for sponsoring the merchant or credit card issuer. Here, whether or not the merchant is a retailer or a credit card issuer, the end-result is the same- it is the merchant's or credit card issuer's money (and decision) that is being donated to the identified non-profit organizations on behalf of the purchaser, not the purchaser's money or change due. At this point, having a retailer instead of a credit card issuer or any other third party provide a credit or rebate to a purchaser for patronizing the issuer's business and subsequently forward the calculated and accumulated credits or rebates to the purchaser's pre-selected non-profit organizations is a matter of choice, design consideration or great convenience, which does not directly impact the utility or functionality of the system or even affect the end-result. An ordinary skilled artisan could have reached the above conclusion at the time of the invention. In other words, the idea of having a retailer instead of a credit card issuer donate the calculated and accumulated rebates or credits to the identified non-profit organizations on behalf of the purchaser for purchases made at the retailer's would have suggested itself to one of ordinary skill in the art at the time of the invention, thereby encouraging the purchaser to sponsor the retailer and hence become a loyal customer since the more money the customer spends at the retailer's POS, the more calculated and accumulated rebates the customer's identified non-profit organizations will receive from the retailer.

Moreover, it is common practice in the industry for businesses or retailers, such as **Giant Food**, to encourage their customers to support their stores by donating a certain percentage of the customers' transaction amount, upon reaching a predetermined threshold or during a specific period of time, to schools or non-profit organizations previously selected by the customers. In addition, advertisers or sponsors periodically run a special promotion for a particular product or

Art Unit: 3622

service, especially after a disaster such a flood, fire or hurricane to name a few, by promising to donate a certain amount of money associated with a customer's purchase of the advertised product or service to the RED CROSS or other non-profit organizations in an effort to help the victims.

Therefore, Applicant's arguments, as described herein, are not plausible and the Applicant's request for allowance or reconsideration has been respectfully denied. The previous office action rejection is hereby maintained and the present action, as submitted below, **has been made final.**

DETAILED ACTION

Specification

In the abstract, it appears that "..., during a transaction between a customer and a merchant collecting..." should have been --..., during a transaction between a customer and a merchant, collecting...--.

The IDS sent on October 30, 2002 (paper no. 19) is a duplicate of the IDS filed on October 07, 2002, which has already been considered by the Examiner.

Status of the claims

Now, claims 1-27 are pending in the Instant Application.

Art Unit: 3622

Claim Objections

Claims 4 and 10 and 6 are objected to because of the following informalities:

Regarding claims 4 and 10, it appears that "... the merchants agree to rebates to the non-profit body" should have been --... the merchants agree **to send the** rebates to the non-profit body--.

Appropriate corrections are necessary.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 2-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a non-statutory subject matter. In fact, the process or steps disclosed in independent claim 2 can not yield to a concrete, useful and tangible result since the steps as recited in the claim pertain to a manual process and therefore, the claim does not fall within the technological art. In other words, the steps or process of **recording, associating, deducting and transmitting**, as recited in the claim, need to be automated or a computer implementation of these steps or process is necessary. Furthermore, although a computer system is recited in the preamble of claim 2, however, the body of the claim does not refer back to the computer system.

Art Unit: 3622

Claim 7 is rejected under 35 U.S.C. 101 because the claimed invention is directed to a non-statutory subject matter. It appears that the Applicant wanted to claim **an article of manufacture** such as a computer readable medium or disc storing computer codes or instructions related to the claimed invention or **a computer program product**, when executed on a computer, is operable to perform the steps outlined in the claimed invention. In either case, the claim or claim 7, as it stands in the Application, does not yield to useful, concrete and tangible result and hence the claim has no patentable merit for merely reciting a computer program product stored in a computer readable medium or Hard disk, which by itself cannot perform any meaningful function (See the following discussion).

Further, it should be noted that a computer code (software or program) does not do anything per se, unless it is encoded or stored on a computer readable medium and enabled when, executed on a computer or processor, to perform specific functions or instructions. The following is a generic example of a proper computer program product claim—

A computer program product encoded on a computer readable medium and comprising code that, when executed on a computer or processor, performs the following:

Function A

Function B

Function C

And so on

Alternatively, the Applicant can claim a computer readable medium having encoded thereon computer instructions to perform the outlined steps. The preamble should read as follows-

A computer readable medium having encoded thereon computer instructions to perform the following steps-

- A;
- B;
- C.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burke, U.S Patent 5,621,640 in view of Hovakimian, US Patent 5, 466, 919.

As per claim 1, Burke teaches a method comprising the steps of:

1.

Providing each of a plurality of supporters **or donors** with an individual identification number (ID) **DC1 of fig. 2 or DC2 of fig. 3**. See column 3 and third paragraph;

Entering the (ID) **DC1 or DC2** into an entry terminal **such as Card Reader CDX or Bar Code Reader BCRX of fig. 1**;

Entering an amount spent by a supporter **or donor** at a merchant in a transaction using **Cash Register CRX POS as depicted in fig. 1**. See columns 2-3 and lines 51-72;

Having the entry terminal **Card Reader CDX or Bar Code Reader BCRX of fig. 1** record the (ID) **DC1 or DC2** as well as the amount of dollars spent in a transaction **into the Cash Register CR1 of fig. 1, which in turn sends the data to CC (central computer) to be stored in DS (data storage) of fig. 1**; See columns 2-3 and lines 51-85;

Uploading the ID **from a donor's card DC1 of fig. 1** and the amount entered to a central clearinghouse **or Central Computer or CC of fig. 1 via communication system CS, which transfers the amount to a selected charity account CA or a charity computer CHY of fig. 1** (col. 3: 10-27-The Examiner notes that there is no difference between the functions performed by the Central Computer or CC of fig. 1 and the central clearinghouse. At this point, it will be evident to one having ordinary skill in the art that the central clearinghouse must use a central

Art Unit: 3622

computer remotely connected to various participating merchants POS in a manner similar to CC as shown in fig. 1. Therefore, the Examiner will treat the Central Computer or CC of fig. 1 as a clearinghouse system or fulfillment system or an automatic clearinghouse or ACH).

Burke does not explicitly disclose a method and/or system for deducting calculated rebates, as determined by a merchant or retailer, based on purchases made by a supporter or customer or donor at the merchant's or retailer's to thereby forward, for payment by the merchant or retailer, the calculated and deducted rebates to a non-profit organization or charity.

However, Hovakimian discloses a patronage incentive system for enabling identified purchasers or customers to contribute or donate to their selected charities whenever they use a specific Bank or issuer's credit card to pay for transactions at participating merchants. In fact, the issuer of the credit card agrees to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer in an effort to encourage the identified purchaser to use the credit card to pay for transactions, thereby yielding to immediate customer's gratification and customer or credit card holder loyalty and retention, which helps retain the customer in an era where it is critical to keep an existing customer (See abstract; col. 1: 33-48; figs. 1-3).

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention without reading the Instant Application to incorporate the teachings of Hovakimian into the Burke's system so as to encourage an identified customer or purchaser to use a specific manufacturer's or issuer's credit or debit card to pay for transactions at participating merchants

by agreeing to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer, wherein the accumulated rebates represent the issuer's own money, thereby yielding to immediate customer's gratification and acceptance of the said credit card, which helps retain the customer in an era where it is critical to keep an existing customer. And in the end, the identified customer will receive important tax document showing the dollar figure associated with the donations, which the identified customer or purchaser can use to reduce the amount of money due to the IRS when the customer files his income tax return using the itemized deduction option (See abstract; col. 1: 33-48; figs. 1-3).

As per claim 2, Burke further discloses a method for collecting donors' or supporters' contributions during POS transactions associated with a plurality of participating merchants or retailers and subsequently distributing the contributions to non-profit or charitable organizations selected by the donors wherein the donors and the non-profit organizations or donees can easily be identified using donor card DC1 Of fig. 2 and charitable account CA of fig. 1 respectively. It should further be understood that the participating or affiliated merchants could easily be identified using specific accounts (bank accounts) or IDs (Abstract; figs. 1-3; col. 1: 18-54; col. 2: 51 to col. 3: 27; col. 4: 41-67; col. 7: 7-26).

Burke does not explicitly disclose a method and/or system for deducting calculated rebates, as determined by a merchant or retailer, based on purchases made by a supporter or

Art Unit: 3622

customer or donor at the merchant's or retailer's to thereby forward, for payment by the merchant or retailer, the calculated and deducted rebates to a non-profit organization or charity.

However, Hovakimian discloses a patronage incentive system for enabling identified purchasers or customers to contribute or donate to their selected charities whenever they use a specific Bank or issuer's credit card to pay for transactions at participating merchants. In fact, the issuer of the credit card agrees to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer in an effort to encourage the identified purchaser to use the credit card to pay for transactions, thereby yielding to immediate customer's gratification and customer or credit card holder loyalty and retention, which helps retain the customer in an era where it is critical to keep an existing customer (See abstract; col. 1: 33-48; figs. 1-3).

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention without reading the Instant Application to incorporate the teachings of Hovakimian into the Burke's system so as to encourage an identified customer or purchaser to use a specific manufacturer's or issuer's credit or debit card to pay for transactions at participating merchants by agreeing to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer, wherein the accumulated rebates represent the issuer's own money, thereby yielding to immediate customer's gratification and acceptance of the said credit card, which helps retain the customer in an era where it is critical to keep an existing customer. And in the end, the identified customer will

Art Unit: 3622

receive important tax document showing the dollar figure associated with the donations, which the identified customer or purchaser can use to reduce the amount of money due to the IRS when the customer files his income tax return using the itemized deduction option (See abstract; col. 1: 33-48; figs. 1-3).

As per claims 3, 4 and 6, Burke further discloses a method comprising the following steps-

3. Wherein the steps of recording assigned identification are performed at a remote terminal **RT1 of a participating** merchant wherein RT1 reports donations by donors to specific charities including identifications during transactions throughout various participating merchants POS to CC or Central Computer in real-time via CS (communication system such as cable, satellite etc.) (fig. 1); and

Having the steps of associating, and transmitting are performed by **a Central Computer or CC of fig. 1** (The Examiner notes that there is no difference between the functions performed by the Central Computer or CC of fig. 1 and the central clearinghouse. At this point, it will be evident to one having ordinary skill in the art that the central clearinghouse must use a central computer remotely connected to various participating merchants POS in a manner similar to CC as shown in fig. 1. Therefore, the Examiner will treat the Central Computer or CC of fig. 1 as a clearinghouse system or fulfillment system or an automatic clearinghouse or ACH).

See figs 1-3 and col. 2: 7 to col. 47.

As per claim 4, Burke further discloses a method for collecting donors' or supporters' contributions during POS transactions associated with a plurality of participating merchants or retailers and subsequently distributing by the merchants 26, as the merchants 26 and the identified customer agreed to, the contributions to non-profit or charitable organizations selected by the donors wherein the donors and the non-profit organizations or donees can easily be identified using donor card DC1 Of fig. 2 and charitable account CA of fig. 1 respectively. It should further be understood that the participating or affiliated merchants could easily be identified using specific accounts (bank accounts) or IDs (Abstract; figs. 1-3; col. 1: 18-54; col. 2: 51 to col. 3: 27; col. 4: 41-67; col. 7: 7-26).

6. Wherein each step of recording includes uploading each transaction to a **CR1 or cash register 1 associated with remote terminal 1 or RT1 and subsequently transferring the transaction data including donation amounts and identifications to Central Computer or CC of fig. 1 or said clearinghouse or fulfillment center having a central computer or CC and wherein the merchants can receive reports regarding the total accumulated donations or the like** (See figs 1-3 and col. 2: 7 to col. 3: 47).

Burke, concerning claims 3, 4 and 6, does not explicitly disclose a method and/or system for deducting calculated rebates, as determined by a merchant or retailer, based on purchases made by a supporter or customer or donor at the merchant's or retailer's to thereby forward, for payment by the merchant or retailer, the calculated and deducted rebates to a non-profit organization or charity.

However, Hovakimian discloses a patronage incentive system for enabling identified purchasers or customers to contribute or donate to their selected charities whenever they use a specific Bank or issuer's credit card to pay for transactions at participating merchants. In fact, the issuer of the credit card agrees to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer in an effort to encourage the identified purchaser to use the credit card to pay for transactions, thereby yielding to immediate customer's gratification and customer or credit card holder loyalty and retention, which helps retain the customer in an era where it is critical to keep an existing customer (See abstract; col. 1: 33-48; figs. 1-3).

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention without reading the Instant Application to incorporate the teachings of Hovakimian into the Burke's system so as to encourage an identified customer or purchaser to use a specific manufacturer's or issuer's credit or debit card to pay for transactions at participating merchants by agreeing to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer, wherein the accumulated rebates represent the issuer's own money, thereby yielding to immediate customer's gratification and acceptance of the said credit card, which helps retain the customer in an era where it is critical to keep an existing customer. And in the end, the identified customer will receive important tax document showing the dollar figure associated with the donations, which the identified customer or purchaser can use to reduce the amount of money due to the IRS when

Art Unit: 3622

the customer files his income tax return using the itemized deduction option (See abstract; col. 1: 33-48; figs. 1-3).

As per claim 7, Burke further discloses a method for collecting donors' or supporters' contributions during POS transactions associated with a plurality of participating merchants or retailers and subsequently distributing the contributions to non-profit or charitable organizations selected by the donors wherein the donors and the non-profit organizations or donees can easily be identified using donor card DC1 Of fig. 2 and charitable account CA of fig. 1 respectively. It should further be understood that the participating or affiliated merchants could easily be identified using specific accounts (bank accounts) or IDs (Abstract; figs. 1-3; col. 1: 18-54; col. 2: 51 to col. 3: 27; col. 4: 41-67; col. 7: 7-26).

Burke does not explicitly disclose a method and/or system for deducting calculated rebates, as determined by a merchant or retailer, based on purchases made by a supporter or customer or donor at the merchant's or retailer's to thereby forward, for payment by the merchant or retailer, the calculated and deducted rebates to a non-profit organization or charity.

However, Hovakimian discloses a patronage incentive system for enabling identified purchasers or customers to contribute or donate to their selected charities whenever they use a specific Bank or issuer's credit card to pay for transactions at participating merchants. In fact, the issuer of the credit card agrees to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified

Art Unit: 3622

purchaser or customer in an effort to encourage the identified purchaser to use the credit card to pay for transactions, thereby yielding to immediate customer's gratification and customer or credit card holder loyalty and retention, which helps retain the customer in an era where it is critical to keep an existing customer (See abstract; col. 1: 33-48; figs. 1-3).

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention without reading the Instant Application to incorporate the teachings of Hovakimian into the Burke's system so as to encourage an identified customer or purchaser to use a specific manufacturer's or issuer's credit or debit card to pay for transactions at participating merchants by agreeing to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer, wherein the accumulated rebates represent the issuer's own money, thereby yielding to immediate customer's gratification and acceptance of the said credit card, which helps retain the customer in an era where it is critical to keep an existing customer. And in the end, the identified customer will receive important tax document showing the dollar figure associated with the donations, which the identified customer or purchaser can use to reduce the amount of money due to the IRS when the customer files his income tax return using the itemized deduction option (See abstract; col. 1: 33-48; figs. 1-3).

As per claim 8, Burke discloses a method for entering the supporter's or donor's ID from a donor's card DC1 of fig. 1, the identification of merchants and non-profit organizations and the contributed amount or donation to a central clearinghouse computer or **Central Computer or**

CC of fig. 1 (col. 3: 10-27-The Examiner notes that there is no difference between the functions performed by the Central Computer or CC of fig. 1 and the central clearinghouse. At this point, it will be evident to one having ordinary skill in the art that the central clearinghouse must use a central computer remotely connected to various participating merchants POS in a manner similar to CC as shown in fig. 1. Therefore, the Examiner will treat the Central Computer or CC of fig. 1 as a clearinghouse system or fulfillment system or an automatic clearinghouse or ACH). Burke further discloses a method for collecting donors' or supporters' contributions during POS transactions associated with a plurality of participating merchants or retailers and subsequently distributing the contributions to non-profit or charitable organizations selected by the donors wherein the donors and the non-profit organizations or donees can easily be identified using donor card DC1 Of fig. 2 and charitable account CA of fig. 1 respectively. It should further be understood that the participating or affiliated merchants could easily be identified using specific accounts (bank accounts) or IDs (Abstract; figs. 1-3; col. 1: 18-54; col. 2: 51 to col. 3: 27; col. 4: 41-67; col. 7: 7-26).

Burke does not explicitly disclose a method and/or system for deducting calculated rebates, as determined by a merchant or retailer, based on purchases made by a supporter or customer or donor at the merchant's or retailer's to thereby forward, for payment by the merchant or retailer, the calculated and deducted rebates to a non-profit organization or charity.

However, Hovakimian discloses a patronage incentive system for enabling identified purchasers or customers to contribute or donate to their selected charities whenever they use a specific Bank or issuer's credit card to pay for transactions at participating merchants. In fact, the

Art Unit: 3622

issuer of the credit card agrees to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer in an effort to encourage the identified purchaser to use the credit card to pay for transactions, thereby yielding to immediate customer's gratification and customer or credit card holder loyalty and retention, which helps retain the customer in an era where it is critical to keep an existing customer (See abstract; col. 1: 33-48; figs. 1-3).

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention without reading the Instant Application to incorporate the teachings of Hovakimian into the Burke's system so as to encourage an identified customer or purchaser to use a specific manufacturer's or issuer's credit or debit card to pay for transactions at participating merchants by agreeing to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer, wherein the accumulated rebates represent the issuer's own money, thereby yielding to immediate customer's gratification and acceptance of the said credit card, which helps retain the customer in an era where it is critical to keep an existing customer. And in the end, the identified customer will receive important tax document showing the dollar figure associated with the donations, which the identified customer or purchaser can use to reduce the amount of money due to the IRS when the customer files his income tax return using the itemized deduction option (See abstract; col. 1: 33-48; figs. 1-3).

As per claims 9-11, Burke discloses a method for entering the supporter's or donor's ID from a donor's card DC1 of fig. 1, the identification of merchants and non-profit organizations and the contributed amount or donation to a central clearinghouse computer or **Central Computer or CC of fig. 1** (col. 3: 10-27-The Examiner notes that there is no difference between the functions performed by the Central Computer or CC of fig. 1 and the central clearinghouse. At this point, it will be evident to one having ordinary skill in the art that the central clearinghouse must use a central computer remotely connected to various participating merchants POS in a manner similar to CC as shown in fig. 1. Therefore, the Examiner will treat the Central Computer or CC of fig. 1 as a clearinghouse system or fulfillment system or an automatic clearinghouse or ACH). Burke further discloses a method for collecting donors' or supporters' contributions during POS transactions associated with a plurality of participating merchants or retailers and subsequently distributing the contributions to non-profit or charitable organizations selected by the donors wherein the donors and the non-profit organizations or donees can easily be identified using donor card DC1 Of fig. 2 and charitable account CA of fig. 1 respectively. It should further be understood that the participating or affiliated merchants could easily be identified using specific accounts (bank accounts) or IDs (Abstract; figs. 1-3; col. 1: 18-54; col. 2: 51 to col. 3: 27; col. 4: 41-67; col. 7: 7-26).

Burke, regarding claims 9-11, does not explicitly disclose a method and/or system for deducting calculated rebates, as determined by a merchant or retailer, based on purchases made by a supporter or customer or donor at the merchant's or retailer's to thereby forward, for

Art Unit: 3622

payment by the merchant or retailer, the calculated and deducted rebates to a non-profit organization or charity.

However, Hovakimian discloses a patronage incentive system for enabling identified purchasers or customers to contribute or donate to their selected charities whenever they use a specific Bank or issuer's credit card to pay for transactions at participating merchants. In fact, the issuer of the credit card agrees to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer in an effort to encourage the identified purchaser to use the credit card to pay for transactions, thereby yielding to immediate customer's gratification and customer or credit card holder loyalty and retention, which helps retain the customer in an era where it is critical to keep an existing customer (See abstract; col. 1: 33-48; figs. 1-3).

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention without reading the Instant Application to incorporate the teachings of Hovakimian into the Burke's system so as to encourage an identified customer or purchaser to use a specific manufacturer's or issuer's credit or debit card to pay for transactions at participating merchants by agreeing to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer, wherein the accumulated rebates represent the issuer's own money, thereby yielding to immediate customer's gratification and acceptance of the said credit card, which helps retain the customer in an era where it is critical to keep an existing customer. And in the end, the identified customer will

Art Unit: 3622

receive important tax document showing the dollar figure associated with the donations, which the identified customer or purchaser can use to reduce the amount of money due to the IRS when the customer files his income tax return using the itemized deduction option (See abstract; col. 1: 33-48; figs. 1-3).

As per claims 21-27, Burke discloses a system having a network or clearinghouse computer network, as shown in fig. 1, connected remote computers RTM, remote charity terminal or charity computer CHY, etc. to central computer CC or clearinghouse computer in a LAN/WAN environment. Supporters or donors swipe their cards DC1 into a card reader CD1, attached to cash register CR1, to identify themselves at a POS or sponsor's and signal their intention to donate to charities. Before the donors or supporters are allowed to contribute to charities of their choice, they must first register with the system or clearinghouse and the registration information including the selected charities are compiled into an account and uploaded in a data storage or database DS coupled to central computer CC or clearinghouse computer of the network. Subsequently, at the conclusion of the registration process, donor cards are issued to the donors or supporters by the system or clearinghouse computer while the donors are shopping at the retailers' stores, where the donors can use these cards to make contributions while conducting transactions at different participating POSes or retailers' (See abstract; figs. 1-3 and 6; col. 5: 16-64). Finally, the location where the donors or supporters and/or merchants register or enroll in order to contribute to their charities and/or to accept contributions or donations from donors is a matter of convenience, design choice or design consideration, which does not directly impact the process or system by which the donors donate to their charities

Art Unit: 3622

and/or the merchants accept or receive contributions from the donors during transactions on behalf of the donees or non-profit organizations; in other words, whether the donors and/or merchants register or sign up using remote terminals RTM at retailers' or merchants POSes or at charity terminals or charity computer CHY or any other terminal available at a charity site, the registration information or data will end up being uploaded into the database DS coupled to the central computer CC or clearinghouse computer.

Burke, regarding claims 21-27, does not explicitly disclose a method and/or system for deducting calculated rebates, as determined by a merchant or retailer, based on purchases made by a supporter or customer or donor at the merchant's or retailer's to thereby forward, for payment by the central computer CC or clearinghouse computer subsequent to receiving by the central computer CC the calculated rebates from the merchant, the calculated and deducted rebates to a non-profit organization or charity.

However, Hovakimian discloses a patronage incentive system for enabling identified purchasers or customers to contribute or donate to their selected charities whenever they use a specific Bank or issuer's credit card to pay for transactions at participating merchants. In fact, the issuer of the credit card agrees to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer in an effort to encourage the identified purchaser to use the credit card to pay for transactions, thereby yielding to immediate customer's gratification and customer or

credit card holder loyalty and retention, which helps retain the customer in an era where it is critical to keep an existing customer (See abstract; col. 1: 33-48; figs. 1-3).

Therefore, an ordinary skilled artisan would have been motivated at the time of the invention without reading the Instant Application to incorporate the teachings of Hovakimian into the Burke's system so as to encourage an identified customer or purchaser to use a specific manufacturer's or issuer's credit or debit card to pay for transactions at participating merchants by agreeing to deduct a certain portion (calculated rebates) from each identified purchaser's transaction involving the credit card and subsequently donate the accumulated portions or rebates to the charity or charities pre-selected by the identified purchaser or customer, wherein the accumulated rebates represent the issuer's own money, thereby yielding to immediate customer's gratification and acceptance of the said credit card, which helps retain the customer in an era where it is critical to keep an existing customer. And in the end, the identified customer will receive important tax document showing the dollar figure associated with the donations, which the identified customer or purchaser can use to reduce the amount of money due to the IRS when the customer files his income tax return using the itemized deduction option (See abstract; col. 1: 33-48; figs. 1-3).

As per claim 5, Burke further discloses a method for collecting donors' or supporters' contributions during POS transactions associated with a plurality of participating merchants or retailers and subsequently distributing the contributions to non-profit or charitable organizations selected by the donors wherein the donors and the non-profit organizations or donees can easily be identified using donor card DC1 Of fig. 2 and charitable account CA of fig. 1 respectively. It

should further be understood that the participating or affiliated merchants could easily be identified using specific accounts (bank accounts) or IDs (Abstract; figs. 1-3; col. 1: 18-54; col. 2: 51 to col. 3: 27; col. 4: 41-67; col. 7: 7-26).

As per claims 12, 14, 16, 18, Burke discloses a system having a network or clearinghouse computer network, as shown in fig. 1, connected remote computers RTM, remote charity terminal or charity computer CHY, etc. to central computer CC or clearinghouse computer in a LAN/WAN environment. Supporters or donors swipe their cards DC1 into a card reader CD1, attached to cash register CR1, to identify themselves at a POS or sponsor's and signal their intention to donate to charities. Before the donors or supporters are allowed to contribute to charities of their choice, they must first register with the system or clearinghouse and the registration information including the selected charities are compiled into an account and uploaded in a data storage or database DS coupled to central computer CC or clearinghouse computer of the network. Subsequently, at the conclusion of the registration process, donor cards are issued to the donors or supporters by the system or clearinghouse computer while the donors are shopping at the retailers' stores, where the donors can use these cards to make contributions while conducting transactions at different participating POSes or retailers' (See abstract; figs. 1-3 and 6; col. 5: 16-64). Finally, the location where the donors or supporters register or enroll in order to contribute to their charities is a matter of convenience, design choice or design consideration, which does not directly impact the process or system by which the donors donate to their charities; in other words, whether the donors register or sign up using remote terminals RTM at the retailers' POSes or charity terminals or charity computer CHY or any other terminal

Art Unit: 3622

available at a charity site, the registration information or data will end up being uploaded into the database DS coupled to the central computer CC or clearinghouse computer.

As per claims 13, 15, 17, 19, Burke discloses a system having a network or clearinghouse computer network, as shown in fig. 1, connected remote computers RTM, remote charity terminal or charity computer CHY, etc. to central computer CC or clearinghouse computer in a LAN/WAN environment. Supporters or donors swipe their cards DC1 into a card reader CD1, attached to cash register CR1, to identify themselves at a POS or sponsor's and signal their intention to donate to charities. Before the donors or supporters are allowed to contribute to charities of their choice, they must first register with the system or clearinghouse and the registration information including the selected charities are compiled into an account and uploaded in a data storage or database DS coupled to central computer CC or clearinghouse computer of the network. Subsequently, at the conclusion of the registration process, donor cards are issued to the donors or supporters by the system or clearinghouse computer while the donors are shopping at the retailers' stores, where the donors can use these cards to make contributions while conducting transactions at different participating POSes or retailers'. The donors or supporters can also use their donor cards to access a report or record associated with their account wherein the report lists, on a display connected to a remote terminal at a POS, information downloaded from the central computer CC on donees or non-profit organizations or charities, collected donated amount or calculated rebates. Reports are provided to the charities in the form of periodic printouts issued by the CC or clearinghouse computer. Charities receive donations or collected donated amounts or calculated rebates electronically from the CC (See

Art Unit: 3622

abstract; figs. 1-3 and 6; col. 2: 29-37; col. 2: 49-50; col. 3: 15-16; col. 3: 22-27; col. 4: 60-65; col. 5: 16-64; col. 6: 60 to col. 7: 20).

As per claim 20, Burke discloses a method for entering the supporter's or donor's ID from a donor's card DC1 of fig. 1, the identification of merchants and non-profit organizations and the contributed amount or donation to a central clearinghouse computer or **Central Computer or CC of fig. 1** (col. 3: 10-27-The Examiner notes that there is no difference between the functions performed by the Central Computer or CC of fig. 1 and the central clearinghouse. At this point, it will be evident to one having ordinary skill in the art that the central clearinghouse must use a central computer remotely connected to various participating merchants POS in a manner similar to CC as shown in fig. 1. Therefore, the Examiner will treat the Central Computer or CC of fig. 1 as a clearinghouse system or fulfillment system or an automatic clearinghouse or ACH). Burke further discloses a method for collecting donors' or supporters' contributions during POS transactions associated with a plurality of participating merchants or retailers and subsequently distributing the contributions to non-profit or charitable organizations selected by the donors wherein the donors and the non-profit organizations or donees can easily be identified using donor card DC1 Of fig. 2 and charitable account CA of fig. 1 respectively. It should further be understood that the participating or affiliated merchants could easily be identified using specific accounts (bank accounts) or Ids. Enrollment or registration or sign up of non-profit organizations, supporters or donors and merchants are performed by the central computer or clearinghouse computer CC (Abstract; figs. 1-3; col. 1: 18-54; col. 2: 51 to col. 3: 27; col. 4: 41-67; col. 7: 7-26).

Conclusion

Although the following references were not used in the Office Action, they were highly considered by the Examiner. Applicant is further directed to consult these references.

US Patent 5,909,794 to Molbak et al is highly considered under a 102 rejection (abstract; col. 2: 30-55).

US Patent 5,905,246A to Fajkowski discloses a clearinghouse for coupon management and redemption.

US Patent 6,052,674A to Zervides et al discloses an electronic invoicing and collection system and method with charity donations.

US Patent 5, 970, 480 to Kalina discloses a patronage incentive system having a centralized credit interchange system for converting purchase credit awards or rebates through credit exchange system for purchase of investment vehicle wherein an identified customer, using a specific manufacturer's credit or debit card to pay for transactions at participating merchants 26, receives credit awards or rebates in an effort to encourage the identified customer to continue to use the specific manufacturer's credit or debit card to pay for purchases at merchants 26 rather than a competitor's credit card or other payment instruments. In a preferred embodiment, merchant 26 enters at a POS a customer's transaction data including customer's identification

Art Unit: 3622

where the customer's transaction data are forwarded to central computer or clearinghouse computer 50 (col. 4: 5-19). Furthermore, when sale/credit award transactions are received by central computer or clearinghouse computer 50, memory or Hard disk 72 will match merchant 26 and member bank 28 assigned and designated credit interchange account numbers to respective purchase credit award contract 74 already stored in memory or Hard disk 72. Purchase award contract 74 utilizes an account number associated with the terms of contract for matching pre-assigned award credit per type of award vehicle used and credits the identified customer's account 76 with the proper amount of award credits (col. 4: 20-58). And in the end, upon reaching a predetermined threshold number, the purchase credit awards or the rebates are converted into a cash value and used by central computer or clearinghouse computer 50 to purchase an investment vehicle at investment center 82 to thereby yield to immediate customer's gratification and customer or credit card holder loyalty and retention, which helps retain the customer in an era where it is critical to keep an existing customer (See abstract; col. 1: 9-19; col. 4: 59 to col. 5: 13).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

Art Unit: 3622

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (703) 308-6287). The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (703) 305- 8469.

For information on the status of your case, please call the help desk at (703) 308-1113. Further, the following fax numbers can be used, if need be, by the Applicant(s):

After Final- 703-872-9327

Before Final -703-872-9326

Non-Official Draft- 703-746-7240

Customer Service- 703-872-9325

Please provide support, that is page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.

JDJ

6/18/03



MELANIE A. KEMPER
PRIMARY EXAMINER